

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS**

**FREEDOM FROM RELIGION  
FOUNDATION, INC., and JOHN ROE,**

*Plaintiffs,*

V.

JUDGE WAYNE MACK, in his personal capacity and in his official judicial capacity on behalf of the State of Texas,

*Defendant.*

CIVIL ACTION NO. 4:19-cv-1934

## [PROPOSED] ORDER

On February 10, 2020, Defendant Judge Wayne Mack in his individual capacity filed a Motion for Reconsideration or Alternatively for Certification under 28 U.S.C. § 1292(b). Having considered that Motion, along with the accompanying Brief in Support and pertinent authorities, the Court is of the opinion that the Motion should be and is hereby GRANTED to the extent it seeks reconsideration of the Court’s January 13, 2020 Memorandum Opinion and Order Denying Judge Mack’s Motion to Dismiss.

Having reconsidered Judge Mack’s Motion to Dismiss, along with the accompanying briefing and pertinent authorities, the Court finds that it lacks subject-matter jurisdiction. *See* Fed. R. Civ. P. 12(b)(1). Alternatively, the Court finds that Plaintiffs have failed to state a claim upon which relief can be granted. *See* Fed. R. Civ. P. 12(b)(6). Defendant’s Motion to Dismiss is hereby GRANTED in all respects. Plaintiffs’ claims are DISMISSED WITH PREJUDICE.

Signed on this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

HON. KENNETH M. HOYT  
UNITED STATES DISTRICT JUDGE